



## Minutes

### Supreme Court's Advisory Committee on the Utah Rules of Appellate Procedure

Administrative Office of the Courts  
450 South State Street  
Salt Lake City, Utah 84114

In Person and by WebEx Videoconference  
Thursday, March 2, 2023  
12:00 pm to 1:30 pm

#### PRESENT

Emily Adams  
Christopher Ballard—Chair  
Troy Booher\*—  
Emeritus Member  
Patrick Burt\*  
Judge Michele  
Christiansen Forster  
Lisa Collins  
Carol Funk\*  
Amber Griffith—Staff  
Tyler Green

Michael Judd—Recording  
Secretary  
Judge Gregory Orme\*  
Stanford Purser  
Michelle Quist  
Clark Sabey\*  
Nathalie Skibine—  
Vice Chair  
Scarlet Smith  
Nick Stiles—Staff  
Mary Westby

#### EXCUSED

None

1. **Action:** **Chris Ballard**  
**Approval of February 2023 Minutes**

The committee reviewed the February 2023 minutes. Chris Ballard noted a missing word in Item 6 that needs correction.

*After that review, Mary Westby moved to approve the February 2023 minutes. Tyler Green seconded that motion, and it passed without objection by unanimous consent.*

\*Starred attendees participated remotely

**2. Discussion:** **Chris Ballard**  
**Comments on Rules 4, 5, 11, 22, 52, and 57**

The committee turned to public comments related to Rules 4, 5, 11, 22, 52, and 57. Mr. Ballard addressed the comments to Rule 4, noting that while he understands the point made by the comment at issue, the burden-shifting in the amended rule represents a deliberate compromise, struck in order to facilitate placement of a deadline in the rule. Mr. Ballard therefore proposed that the committee move forward with the proposed amendment as it stands. Ms. Westby agreed, stating that while she understands the comment, the committee's approach was a compromise that already accounted for the concerns raised in the comment.

*Following that discussion, Ms. Westby moved to forward the rule for final approval. Lisa Collins seconded that motion, and it passed without objection by unanimous consent.*

With respect to Rule 5, the committee considered several small changes to address the entry of the trial court's order.

*Ms. Westby then moved to forward the rule for final approval, with a discussed clarifying addition, as it appeared on screen at the committee's meeting. Mr. Green seconded that motion, and it passed without objection by unanimous consent.*

The committee moved on to Rule 57. Ms. Westby spoke in response to the public comment, and suggested that the comment prompted an important correction. The committee discussed and settled on new language that would clarify the committee's intent and simplify application.

*With that new language in hand, Ms. Westby move to tentatively approve Rule 57 as modified, pending approval from the juvenile court commentor. Scarlet Smith seconded that motion, and it passed without objection by unanimous consent.*

**3. Action:** **Chris Ballard**  
**Rules 4, 5, 11, 22, 52, and 57**

*Following the discussion captured above related to the comments received, Michelle Quist moved to recommend rule 4, 5, 11, 22, and 52 for final approval. Judge Michele Christiansen Forster seconded that motion, and the motion passed without objection by unanimous consent.*

4. **Action:** **Chris Ballard**  
**Rule 4—S.B. 18**

Mr. Ballard relayed to the committee that the legislature has now passed Senate Bill 18, which deals with cause of action under Utah’s revised Anti-SLAPP Act. That bill included a shorter deadline for filing a notice of appeal intended to resolve a denied motion to dismiss on an expedited basis. In passing that bill, a concern arose: including a filing deadline in a bill may run afoul of constitutional provisions that give the court rule-making authority. The proposed fix was for the Court’s legislative liaison, Michael Drechsel, to work with the committee to add the new filing deadline to the rule itself.

The committee discussed minor changes to language of the rule and talked through the procedural mechanisms created by the bill.

*Following that discussion, Emily Adams moved to adopt the amendment as shown on the screen at the committee meeting. Lisa Collins seconded, and the motion passed, with three objections noted: Ms. Quist, Judge Christiansen Forster, and Ms. Smith. The committee noted that the change must be in effect by May 3 and that circulation for public comment will likely occur after that date.*

5. **Action:** **Mary Westby**  
**Rule 14**

The committee discussed a minor change to Rule 14, to add language requiring payment of a filing fee for a petition for review of an administrative order. The committee believes that the language at issue may have been included in the rule previously but has since been inadvertently removed. The proposed change to the rule would add that language back into the text, to ensure consistency with other rules.

*Ms. Adams moved to adopt the amendment as shown on screen at the committee meeting. Stan Purser seconded that motion, and it passed without objection.*

6. **Future Business:** **Chris Ballard**  
**Remote and In-Person Hearings**

The committee identified an issue to be addressed at its next meeting: a proposal about how and when remote hearings may be conducted.

7. **Discussion:** **Chris Ballard**  
**Other Old/New Business**

Mr. Ballard provided an update on a previous proposal regarding child-welfare appeal rules. The committee had discussed potential changes to those rules, but the committee understands that after the Utah Supreme Court heard input from stakeholders, there is still no consensus. The committee understands that consensus-seeking meetings will continue.

8. **Adjourn**

*Following the business described above, Ms. Quist moved to adjourn, and Judge Christiansen Forster seconded. The committee adjourned. The committee's next meeting will take place on April 6, 2023.*